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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,909	09/11/2003	James Joyce		3608
7590	10/06/2004		EXAMINER	
Shlesinger, Fitzsimmons & Shlesinger Suite 1323 183 East Main Street Rochester, NY 14604			SAYALA, CHHAYA D	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/658,909	JOYCE, JAMES
	Examiner C. SAYALA	Art Unit 1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 2 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 3, ". In addition" should be deleted.

In claim 1, line 4, - - and - - should be inserted before "liquid". Parentheses in the claims render them indefinite.

With regard to claim 2:

See MPEP 608.01 (m), which states that

"Each claim begins with a capital letter and ends with a period. Periods may not be used elsewhere in the claims except for abbreviations. See *Fressola v. Man-beck*, 36 USPQ2d 1211 (D.D.C. 1995)."

Therefore, it is required that claim 2 be of one sentence only.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

A person shall be entitled to a patent unless -

2. Claims 1-2 are rejected under 35 U.S.C. 102(a) as being anticipated by Hale.

Claims 1 and 7 of the reference are the same.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hurst (US Patent 6036881) in view of Wurtz (US Patent 4306978), Nicholson (US Patent 4554002) and Hale (US Pub No. 2004/0177664) or DD 151145 taken with Meehan et al. (US Patent 4793927).

Hurst stabilizes sewage waste by adding lime and potash. At col. 3, lines 60+, patentee states that hydrated lime raises alkalinity and adds calcium to the waste which is a soil nutrient, when the end product from such stabilization is achieved, which is for the application to soil for agricultural purposes. The potash is added for a number of benefits enumerated at col. 4, lines 10-17. The other additives are not shown.

Wurtz teaches stabilization of municipal sludge with lime. The quantity of lime to be added is said to depend on the quality of the lime and composition of the sludge.

See col. 4, lines 59+. Note col. 1, lines 30+ which teaches that it is known that lime stabilization effectively eliminates odors, and pathogenic organisms.

Nicholson teaches beneficiating waste sludge by adding kiln dust, which contains lime. Again, such addition is said to reduce odors and pathogens. Col. 1, lines 55+. At col. 3, lines 5-10, the sludge is said to contain phosphate. The addition of kiln dust provides lime as well as phosphate. See col. 4, lines 20-25, col. 10, lines 50-55. Additives that are useful for fertilizing are added, such as nitrogen, phosphorus and magnesium. See col. 9, lines 65-68.

Both the DD patent and Meehan et al. teach adding solid or liquid ammonia that is capable of destroying parasites and pathogens. See col. 3, lines 55+ in '927.

The Hale publication, which is similar in its claim 1 and 7, teaches adding macronutrients and the claimed chemicals to disinfect sludge. See the whole document.

It would have been obvious to one of ordinary skill in the art to add potash, lime and ammonia, whether liquid or solid and additives such as phosphorus to stabilize the sludge and to convert it to a form useful for agricultural applications. As stated by the applied patent, amounts added would depend on the quality of the additives and the sludge. Whether the ammonia is added as a liquid as taught by the reference or as liquid prills, the effect would have been the same and this would have been obvious at the time the invention was made.

The objective of stabilizing sludge is to reduce pathogens and odors and therefore the addition of the potash, ammonia and lime would have been obvious since

the applied references clearly delineate the benefits of such additions. Further, since the objective of stabilization is to convert the sludge to a utilizable form so as to use the benefits of its nutrient and organic value, then it would have been obvious to one of ordinary skill in the art at the time the invention was made to add macronutrients to add N, P, K values for its use as a fertilizer.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. SAYALA whose telephone number is 571-272-1405.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



C. SAYALA

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Primary Examiner  
Group 1700.